



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
FREEDOM OF INFORMATION ACT BRANCH  
Washington, D.C. 20570

Via email

June 29, 2023

Re: FOIA Request NLRB-2023-001598

Dear Jillian Forstadt (WESA):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on June 15, 2023, in which you seek:

“RD Order” filed by the NLRB GC on 6/14/23 in case number 06-CA-311141, *PG Publishing Co., Inc. d/b/a Pittsburgh Post-Gazette*; “RD Order” filed by the NLRB GC on 6/14/23 in case number 06-CA-269416, *PG Publishing Co., Inc. d/b/a Pittsburgh Post-Gazette*; “RD Order” filed by the NLRB GC on 6/14/23 in case number 06-CA-302629, *PG Publishing Co., Inc. d/b/a Pittsburgh Post-Gazette*; [and] [a]ll other documents labeled “RD Order” and filed on 6/14/23 in cases involving *PG Publishing Co., Inc. d/b/a Pittsburgh Post-Gazette*.

You did not assume financial responsibility for the processing of your request.

We acknowledged your request on June 15, 2023.

Your request is denied in part and granted in part, as explained below.

After conducting a search of the Agency’s electronic casehandling system, NxGen, the requested Regional Director’s June 14, 2023 Order (“RD Order”) was located, an “Order Referring Petition to Revoke Subpoena Duces Tecum to Division of Judges,” in the case file in *PG Publishing Co., d/b/a Pittsburgh Post-Gazette*, Case Nos. 06-CA-269416, 06-CA-302629, and 06-CA-311141, and is attached. There is only one order because the three matters were consolidated to one hearing. No information has been redacted from this record.

I have further determined, however, that the two attachments to the RD Order (the petition to revoke and opposition) should be withheld at this time. These records are part of an investigative file in currently open cases before the Agency, and therefore, are exempt from disclosure pursuant to Exemption 7(A) of the FOIA. 5 U.S.C. § 552 (b)(7)(A). Exemption 7(A) allows an agency to withhold records included in an open investigatory file where disclosure could reasonably be expected to interfere with enforcement proceedings. See *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978). Therefore, your request is granted to the extent I have attached the one-

page RD Order but denied to the extent that the Order's attachments are withheld in full pursuant to Exemption 7(A) given that the requested cases are open/pending in the Region (have not yet gone to hearing) and the harm or interference to those open proceedings that reasonably could be expected to occur if disclosed at this time.

Please note that Exemption 7(A) protection is "temporal in nature." *Citizens for Responsibility & Ethics in Wash. V. Dep't of Justice*, 746 F.3d 1082, 1097 (D.C. Cir 2014) (citing *NLRB v. Robbins Tire*, 437 U.S. 214, 223-24 230-32 (1978)). As such, case file records may become disclosable, subject to applicable exemptions, after the cases close, that is, once a Board decision and/or court order issues, there has been full compliance with a settlement, or the cases have otherwise been closed under Agency procedures. Accordingly, you may file a new request at that time.

The status of the requested consolidated cases can be tracked on the Agency website at [www.nlr.gov](http://www.nlr.gov) by going to the Cases & Decisions tab, clicking case search, entering each case number in the search box and viewing the case page for each case or by clicking the links here: <https://www.nlr.gov/case/06-CA-269416>, <https://www.nlr.gov/case/06-CA-302629>, and <https://www.nlr.gov/case/06-CA-311141>.

Regarding your request for "any other documents labeled 'RD Order'" issued on June 14, 2023 in any other case involving PG Publishing Co., d/b/a Pittsburgh Post-Gazette, the search did not locate any other responsive records.

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person "actively gathering news for an entity that is organized and operated to publish or broadcast news to the public." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request. Given your placement as news media requester, your fee waiver request is moot.

You may contact William T. Hearne, the FOIA Attorney-Advisor who processed your request, at (202) 273-0139 or by email at [william.hearne@nlrb.gov](mailto:william.hearne@nlrb.gov), as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency's FOIA Public Liaison is:

Kristine M. Minami, FOIA Public Liaison  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570

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Email: FOIAPublicLiaison@nlrb.gov

Telephone: (202) 273-0902

Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration

8601 Adelphi Road-OGIS

College Park, Maryland 20740-6001

Email: ogis@nara.gov

Telephone: (202) 741-5770

Toll free: (877) 684-6448

Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:  
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt, Chief FOIA Officer

National Labor Relations Board

1015 Half Street, S.E., 4<sup>th</sup> Floor

Washington, D.C. 20570

Email: DLCFOIAAppeal@nlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

*/s/ Synta E. Keeling*

Synta E. Keeling  
FOIA Officer

Attachment: (one page)